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IN THE

Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-301

HARRY COMEAUX,
Plaintiff-Appellant,

versus

GEORGE BULLER, ET AL,
Defendants-Appellees.

Application for Writ of Certiorari to the United States Court of Appeals, Fifth Circuit

J. MINOS SIMON
1408 Pinhook Road
Post Office Box 52116, OCS
Lafayette, Louisiana

ATTORNEY FOR PLAINTIFF-APPELLANT

THE DAILY RECORD CORP., 310 Cotton Exchange Bldg., New Orleans, La. 70130

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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1972

No.

HARRY COMEAUX,
Plaintiff-Appellant,

versus

GEORGE BULLER, ET AL,
Defendants-Appellees.

Application for Writ of Certiorari to the United States Court of Appeals, Fifth Circuit

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TO THE CHIEF JUSTICE, AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Petitioner respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals, Fifth Circuit entered on ~~March~~ MAY 24, 1972, whereby defendants' motion to dismiss was affirmed and petitioner's lawsuit was dismissed.

OPINION BELOW

The United States Court of Appeals, Fifth Circuit, rendered no opinion. The action of the court is reflected in the following words:

PER CURIAM: AFFIRMED.
See Local Rule 21.

The opinion of the United States District Court, affirmed by the respondent appellate court, is reproduced herein in the appendix hereof.

JURISDICTION

Petitioner filed his original complaint in the United States District Court for the Western District of Louisiana alleging concerted action among the defendant state officials to deny him of federally secured rights. He prayed for injunctive relief and for actual and punitive damages. A motion to dismiss for failure to state a claim was sustained by the district court and affirmed without opinion by the United States Court of Appeals, Fifth Circuit. Petitioner invokes the provisions of 28 USCA 1254 as the jurisdictional ground for this application.

QUESTION PRESENTED

In anticipation of his honorable discharge as an enlisted member of the United States Air Force, petitioner purchased a tract of land in St. Landry Parish, Louisiana. After the purchase of that tract of land,

he expended a considerable amount of money improving it, which included the construction of a cattle guard and gate at the entrance way into his property. Shortly after the improvements were completed, state officials came upon his land and tore down all of these improvements. Petitioner suffered the same fate when he reconstructed these improvements. This state action was taken against your petitioner and threatens to continue to be taken against him without any sanction of law, without any process of any court and reflects simply the exercise of naked official power. In his lawsuit filed with the United States District Court, petitioner seeks protection against such state action and in the process invokes the provisions of 42 USCA 1981, 1983 and 1988 as well as the provisions of the Fourteenth Amendment to the United States Constitution. The essential question presented is whether or not petitioner's complaint states a cause cognizable by the Fourteenth Amendment and these federal statutes.

CONCISE STATEMENT OF THE CASE

The federal question presented by this application exists only in the context of petitioner's complaint. Thus, the most concise way of stating the case to the court is to quote the averments of petitioner's complaint. The text of the complaint is as follows:

JURISDICTION

(A) The jurisdiction of this court is invoked under Title 28, United States Code, Section 1331, this being a civil action in equity and arises under the Constitution and laws of the United States, and Title 42, United

States Code, Sections 1981, 1983 and 1988, this being an action in which a citizen of the United States contends that he has been, is now and threatens to continue to be denied of rights, privileges and immunities secured to him by the Constitution of the United States, and of the full and equal benefits and protection of pertinent laws of the State of Louisiana and, thus, is deprived of his legal rights as a citizen of the State of Louisiana and of the United States contrary to the Constitution and laws of the United States.

(B) The jurisdiction of this court is further invoked under Title 28 of the United States Code, Section 1343(3)(4), this being an action for the redress of the deprivation, under color of law, of rights, privileges and immunities secured to complainant as a citizen of the United States by the Constitution and laws of the United States.

FACTS

(1) Complainant, HARRY COMEAUX, alleges that he is an adult citizen of the United States and of the State of Louisiana, and resides in St. Landry Parish, Louisiana.

(2) At all times material hereto George Buller and Johnny A. Haas are and were residents of St. Landry Parish, Louisiana, and duly elected and constituted members of the St. Landry Parish Police Jury, the governing body of St. Landry Parish, Louisiana.

(3) Anatole Marks at all times material hereto was and is an adult male and resident of St. Landry Parish, Louisiana.

(4) From May 22, 1953, until September 30, 1969, complainant was an actively enlisted member of the United States Air Force, receiving an honorable discharge from said Air Force on the latter date, and at all times material hereto was the owner of a twenty (20) acre tract of land situated in Ward 2 of St. Landry Parish, Louisiana.

(5) Complainant alleges that as owner of said tract of land and during the year 1968, he expended a considerable amount of money improving his said tract of land, included in which was the leveling of his said land and the construction of a cattle guard and gate at the entranceway of a private roadway which traverses your complainant's said tract of land.

(6) Complainant alleges that George Buller and Johnny A. Haas, while acting in their official capacities as members of the Police Jury of St. Landry Parish, Louisiana, and under color of law acted in concert and conspiracy with Anatole Marks, and other public officials, including deputy sheriffs of St. Landry Parish, Louisiana, whose identities currently are unknown to your complainant, for the purpose of destroying your complainant's structures placed upon his said land and for the additional purpose of depriving and denying your complainant of the use of his said land and for the specific purpose of compelling your complainant to permit the said Anatole Marks to expropriate and make use of your complainant's land for his own private purposes and without cost to the said Anatole Marks.

(7) In furtherance of the said conspiracy, according to your complainant's information, while your com-

plainant was actively serving in the United States Air Force and away from his said premises, and sometime during the month of November, 1968, said Anatole Marks, George Buller and others unknown to your complainant came upon your complainant's property while acting under color of law and caused to be removed the improvements which your complainant had erected upon his property and more particularly the cattle guard and gate aforesaid, and caused to be filled, the trench which the cattle guard spanned and furthermore caused road equipment belonging to the St. Landry Parish Police Jury to come upon your complainant's property and to destroy improvements aforesaid and to dig a ditch along your complainant's private roadway over his said property, all without your complainant's consent or knowledge.

(8) Complainant further alleges that while acting under color of state law and in furtherance of said conspiracy, said defendants effectively appropriated your complainant's property and committed it to the use of the said Anatole Marks, who traveled thereover freely and at will and committed the use of your complainant's property to others who sought to use the same.

(9) Complainant alleges that in due course he consulted counsel and on September 19, 1969, his said counsel addressed a letter to the said Anatole Marks, the St. Landry Police Jury, the St. Landry Parish School Board, and the Postmaster of Arnaudville, Louisiana, informing essentially that said parties had been making use of your complainant's property without his permission and advising that any further entry upon his

property without his specific consent would be treated as a trespass and the parties involved would be held for all damages.

(10) Complainant alleges that in response to said notice, and in furtherance of the conspiracy aforesaid the said George Buller appeared before the City Judge of Opelousas, Louisiana, and swore out a criminal charge against your complainant charging your complainant with the obstruction of a parish road in Ward 2 and consequently caused your complainant to be arrested and to be incarcerated in default of the posting of the Two Hundred Fifty ($250) Dollars property bond; complainant alleges that there is no basis either in fact or law for the charge and that said charge was filed against your complainant in furtherance of the conspiracy to deprive your complainant of his constitutional liberties and particularly of the right to freely use and possess his property.

(11) Complainant alleges that in December, 1969, he again erected a gate across the entrance way to the aforesaid private roadway traversing his said property; on the same date of the erection of said gate and while your complainant had just about completed the effort, two deputies of the Sheriff's Office of St. Landry Parish, Louisiana, whose identities are unknown to your complainant, appeared at the site of the erection of said gate and commanded your complainant to remove said gate, but your complainant advised that he would do so only upon receipt of a court order or some authority justifiable in law, whereupon said deputies left.

(12) Complainant alleges that approximately one week thereafter, defendant Johnny A. Haas and George Buller, while acting under color of law and in furtherance of the conspiracy aforesaid, along with deputies from the Sheriff's Office of St. Landry Parish, Louisiana, appeared at your complainant's property and forcefully removed the gate which your complainant had erected on his property.

(13) Your complainant alleges that said defendants while acting under color of law and in conspiracy with each other and others unknown to your complainant have without sanction of law deprived your complainant of the use of his property, of his right of privacy, of the right not to be arrested falsely, of the right to the equal protection of state laws, all without due process of law and these deprivations have resulted through the exercise of the naked force of law and authority residing in said defendants and your complainant verily believes that said defendants intend to continue to deprive your complainant of his constitutional liberties, including the false criminal prosecution of him; thus complainant alleges that he is now and threatens to continue to be greatly harmed, damaged, imprisoned and injured by the illegal and wrongful conduct of defendants herein; that he has no plain, adequate or efficient remedy at law to redress the wrongful acts of defendants herein, other than injunctive relief against these defendants to abate and restrain the wrongful action being pursued by him under color of state law.

(14) Complainant further alleges that unless this Honorable Court issues a temporary restraining order

immediately and without a hearing, enjoining, restraining and prohibiting defendants herein, their agents, servants, employees and/or successors in office, and those acting in concert with them, from wrongfully depriving your complainant of his property and taking prosecutive steps against your complainant as herein aforesaid, your complainant will suffer immediate and irreparable injury, harm, damage, imprisonment, forfeitures and fines.

(15) Your complainant further alleges that the wrongful conduct of defendants herein entitles your complainant to actual damages of Twenty-Five Thousand ($25,000.00) Dollars and to punitive damages of Seventy-Five Thousand ($75,000.00) Dollars.

WHEREFORE COMPLAINANT PRAYS that upon the filing of this complaint, as may appear fitting and proper to the court:

"(1) That a temporary restraining order do issue herein immediately and without a hearing, enjoining, restraining and prohibiting defendants herein, their agents, servants, employees and/or successors in office, and those acting in concert with them, from entering upon your complainant's property without his consent and from depriving your complainant of the free and unfettered use of his said property and from prosecuting or aiding and abetting in the prosecution of your complainant on the basis of the criminal charges heretofore filed against your complainant as herein aforesaid, and from doing and performing any other act which denies or tends to deny or impair your complainant's right to due process and equal protection

or his other existing liberties secured to him by the Constitution of the United States.

(2) That this cause be advanced on the docket of this court and set for a speedy hearing according to law and upon a preliminary hearing that a preliminary injunction in the nature and substance of the temporary restraining order herein prayed for do issue.

(3) That upon final hearing of this cause on its merits this Honorable Court:

(a) Will enter a permanent injunction that will enjoin and restrain said defendants, their agents, servants, representatives and employees and their successors in office and all persons acting for or with them forever from entering upon your complainant's property without his consent and from depriving your complainant of the free and unfettered use of his said property and from prosecuting or aiding and abetting in the prosecution of your complainant on the basis of the criminal charges heretofore filed against your complainant as herein aforesaid, and from doing and performing any other act which denies or tends to deny or impair your complainant's right to due process and equal protection or his other existing liberties secured to him by the Constitution of the United States.

COMPLAINANT FURTHER PRAYS that he have judgment against defendants, GEORGE BULLER, ANATOLE MARKS and JOHNNY A. HAAS, in the sum of Twenty-Five Thousand ($25,000.00) Dollars, for actual damages and in the sum of Seventy-Five Thousand ($75,000.00) Dollars for punitive damages;

your complainant further prays for trial by jury of all the issues of fact involved in connection with his claim for these damages.

Defendants' motion to dismiss reads as follows:

"MOTION TO DISMISS

The joint motion of George Buller, Anatole Marks and Johnny A. Haas, defendants herein, represent:

1. Plaintiff's petition does not state a cause of action which is cognizable by this Court or any Court of the United States of America.

2. Plaintiff's petition does not state any action upon which relief can be granted.

WHEREFORE, Movers pray that Plaintiff's petition be dismissed at his costs."

This motion to dismiss was sustained by the District Court and affirmed on appeal.

REASONS FOR GRANTING THE WRIT

The federal question presented resides within the narrow compass of the allegations of the complaint. This guiding rule of review was articulated by Mr. Justice Marshall in *Jenkins v. McKeithen*, 395 U.S. 415, 89 S.Ct. 1843, 1849 as follows:

> "(2,3) For the purpose of a motion to dismiss, the *material allegations* of *the complaint are taken as admitted.* See e.g., Walker Pro-

> cess Equipment Inc. v. Food Machinery & Chemical Corp., 382 U.S. 172, 174-175, 86 S.Ct. 347, 348-349, 15 L.Ed2d 247 (1965). And, the complaint is to be *liberally construed in favor of plaintiff*. See Fed.Rule Civ. Proc.8(f); Conley v. Gibson, 355 U.S. 41, 78 S.Ct. 99, 2 L.Ed2d 80 (1957). The complaint *should not* be dismissed unless it appears that appellant could 'prove no set of facts in support of his claim which would entitle him to relief'. Conley v. Gibson, supra, at 45-46, 78 S.Ct. at 102."

In such a context, it has been held that plaintiff's burden "in resisting a motion to dismiss for failure to state a cause of action is a relatively slight one". *W. A. Williams, et al v. Wheeling Steel Corporation* (1967) 266 F.Supp. 651. Such a motion is rarely granted and the burden of demonstrating the absence of a genuine material fact issue is upon the moving party and "all doubts are resolved against movant". *Carlson v. Chatfield Machinery Company* (1964) 228 F.Supp. 162. See also *A.P. Brod and Company v. Perlow* (2nd Cir.) (1967) 375 F.2d 393.

On the basis of the allegations of this complaint, petitioner clearly states a cause of action to be tried. His allegations show a clear violation of his right to due process and equal protection. The complaint instances the destruction of his property without any court process at all, the expropriation of his land without due process, the denial of his property contrary to the equal protection of state laws. In fact, petitioner expressly alleges that "defendants" and "others unknown to your complainant" have deprived him of "the use of

his property, of his right of privacy, of the right not to be arrested falsely, of the right to the equal protection of state laws, all without due process of law***". Such action strikes at the very core of the concept of due process and equal protection.

Due process, said the court in *Trustee of Darmouth College v. Woodward,* 4 Wheat 518, 4 L.ed. 629, is "a law which hears before it condemns, and which proceeds upon inquiry, and renders judgment only after trial."

Due process is secured by laws operating on all alike, and not subjecting the individual to the arbitrary exercise of the powers of government unrestrained by the established principles of private right and distributive justice. *Caldwell v. Texas,* 137 U.S. 692, 11 S.Ct. 224, 34 L.Ed. 816; *Duncan v. Mssouri,* 152 U.S. 377, 14 S.Ct. 570, 38 L.Ed. 485.

Said the court in *Holden v. Hardy,* 169 U.S. 366, 389, 390, 18 S.Ct. 383, 387, 42 L.Ed. 780:

> "This court has never attempted to define with precision the words 'due process of law' nor is it necessary to do so in this case. It is sufficient to say that there are certain immutable principles of justice, which inhere in the very idea of free government, which no member of the Union may disregard, *as that no man shall be condemned in his person or property without due notice and an opportunity of being heard in his defense.*"

In addressing itself to the meaning of the phrase "equal protection of the laws," the court in *State of Missouri, ex rel., Gaines v. Canada, et al.* (1938), 59 S.Ct. 232, 236, 305 U.S. 337, said: "The equal protection of the laws is 'a pledge of the protection of equal laws.' *Yick Wo v. Hopkins*, 118 U.S. 356, 369, 6 S.Ct. 1064, 1070, 30 L.Ed. 220. Manifestly, the obligation of the state to give the protection of equal laws can be performed only where its laws operate, that is, within its own jurisdiction. It is here that the quality of legal right must be maintained. That obligation is imposed by the Constitution upon the states severally as governmental entities, — each responsible for its own laws establishing the rights and duties of persons within its borders. * * *"

Again in *Skinner v. State of Oklahoma* (1942), 52 S.Ct. 1110, 1113, 316 U.S. 535, the court further observed:

> "* * * The guaranty of 'equal protection of the laws is a pledge of the protection of equal laws.' *Yick Wo v. Hopkins*, 118 U.S. 356, 369, 6 S.Ct. 1064, 1070, 30 L.Ed. 220. When the law lays an unequal hand on those who have committed intrinsically the same quality of offense and sterilizes one and not the other, it has made as invidious a discrimination as if it had selected a particular race or nationality for oppressive treatment."

The broad reach of the federal statute under consideration was defined almost thirty years ago in *Hague v. C.I.O.* (1939), 307 U.S. 496, 59 S.Ct. 954, to include all of the rights embraced by the Fourteenth Amendment in these words:

> "It (1983) thus includes the Fourteenth Amendment and such privileges and immunities as are secured by the due process and equal protection clauses, as well as by the privileges and immunities clause of that amendment. * * *"

"Whoever," said the court in *Ex Parte, Virginia,* 100 U.S. 339, 347, "by virtue of public position under a state government, deprives another of property, life or liberty, without due process of law, or denies or takes away the equal protection of the laws, violates these constitutional inhibitions."

In the recent decision of *Monroe v. Pape,* 81 S.Ct. 473, 476, the court said:

> "There can be no doubt at least since *Ex Parte, Virginia,* 100 U.S. 339, 346-347, 25 L.Ed. 676, that Congress has the power to enforce provisions of the Fourteenth Amendment against those who carry a badge of authority of a state and represent it in some capacity, *whether they act in accordance with their authority or misuse it.* ***"

Thus, that a statement of a claim under 42 U.S.C.A. 1983 is asserted in the complaint is made somewhat more than manifest by the thrust of the jurisprudence exemplified by the following cases: *Cooper, et al., v. Aaron, et al.* (1958) U.S. 1, 78 S.Ct. 1401; *State of Missouri, ex rel, Gaines v. Canada, et al.* (1938), 305 U.S.

337, 59 S.Ct. 232; *Monroe v. Pape*, 81 S.Ct. 473; *United States v. Classic*, 313 U.S. 299, 61 S.Ct. 1031; *Pyle v. Kansas*, 317 U.S. 213, 63 S.Ct. 177; *Hague v. C.I.O.*, 307 U.S. 496, 59 S.Ct. 954; *Birnbaum v. Trussell*, 371 F.2d 672; *Basista v. Weir*, 340 F.2d 740; *Nesmith v. Alford*, 318 F.2d 110; *Cohen v. Norris*, 300 F.2d 24; *Hughes v. Noble*, 395 F.2d 495; *Brazier v. Cherry*, 293 F.2d 400; *Coleman v. Johnson*, 247 F.2d 273; *United States, ex rel, Potts v. Rabb*, 141 F.2d 45; *Valle v. Stingel*, 176 F.2d 697; *Cancino v. Sanchez*, 379 F.2d 808; *Jenks v. Henys*, 378 F.2d 335; *Brown v. Brown*, 368 F.2d 992; *Morgan v. Labiak;* 368; F.2d 338; *DeWitt v. Pail*, 366 F.2d 682; *Smith v. Hampton Training School for Nurses*, 360 F.2d 577, *Rivers v. Royster*, 360 F.2d 592.

CONCLUSION

The allegations of the complaint affirmatively establishes that petitioner has been denied of his constitutionally secured right of due process and equal protection in respect to the full and complete use and ownership of his property. This denial has been brought about as a result of the "misuse of power possessed by virtue of state law and made possible only because a wrongdoer is closed with the authority of state law", and thus constitutes action taken "under color" of state law contrary to the provisions of 42 U.S.C.A. 1983. *United States v. Classic*, (1941) 313 U.S. 299, 620 S.Ct. 1031.

Not only has petitioner been denied of his federally secured rights but now the defendants in this case have

filed a lawsuit against petitioner in State Court claiming attorney fees of THREE THOUSAND AND NO/100 ($3,000.00) DOLLARS against him because petitioner dared to invoke the jurisdiction of the federal judiciary for protection against the unconstitutional invasion by the state officials of his federally secured rights. The state lawsuit invokes the provisions of Louisiana Revised Statutes, Title 42, Section 261 (d) which authorizes such punitive action against those citizens such as petitioner, who invoke the jurisdiction of the federal courts for protection and vindication of their constitutionally secured rights. (lawsuit reproduced in appendix) This additional action on the part of the defendants makes it all the more imperative that the dismissal of petitioner's lawsuit be reversed. Petitioner respectfully submits that the decisions of the lower court are so patently wrong as to justify a per curiam reversal of them.

Respectfully petitioner urges that review and reversal must be granted, if his constitutional liberties secured by the Fourteenth Amendment are to be vindicated.

Respectfully submitted,

J. MINOS SIMON
1408 Pinhook Road
Post Office Box 52116
Lafayette, Louisiana

ATTORNEY FOR
APPELLANT

CERTIFICATE

STATE OF LOUISIANA
PARISH OF LAFAYETTE

I, J. Minos Simon, counsel for petitioner and a member of the United States Supreme Court, hereby affirm under oath that a copy of the foregoing petition for a writ of certiorari has been served on the parties hereto by mail, in a properly addressed envelope, postage prepaid, as follows, to-wit:

Honorable Edward W. Wadsworth, Clerk
United States, Court of Appeals, Fifth Circuit
400 Royal Street, Room 408
New Orleans, Louisiana 70130

Mr. Robert Brinkman
Attorney at Law
149 W. Landry Street
Opelousas, Louisiana 70570

Mr. John L. Olivier
Attorney at Law
P. O. Box 246
Sunset, Louisiana 70584

Lafayette, Louisiana this __ day of August, 1972.

_____

SWORN TO AND SUBSCRIBED before me on this __ day of August, 1972, at Lafayette, Louisiana.

_____

NOTARY PUBLIC

APPENDIX

SCOTT, JUDGE:

RULING

Jurisdiction of this Court is sought to be invoked under 42 U.S.C. 1981, 83 and 88, and 28 U.S.C. 1343(3), (4).

Plaintiff alleges that two members of the police jury (the parish level governing body) and a private citizen have conspired to deprive him of his land, of his right to privacy, of his right not to be arrested falsely, and of his right to equal protection.

These issues arise in a dispute as to whether a certain road which was the private property of plaintiff has been tacitly dedicated to the Parish in accordance with a State statute which outlines the requirements for such dedications.

Specifically, plaintiff alleges that the State's removal of gates and other structures which he erected in and upon the roadway (subsequent to the disputed dedication) was in furtherance of a conspiracy to deprive him of his civil rights. There is no allegation of any discrimination or other specific denial of equal protection under the law.

The Louisiana statutes which prescribe the manner by which private roads are dedicated to the State are not attacked as providing less than due process of law. The effects of dedication should it have been accomplished would be to allow the state to treat this roadway

as it would any other State roadway. The State can clearly remove obstructions placed or erected on its roadways, and that is all that has been done here.

Federal jurisdiction is not and should not be available to determine whether this particular roadway has undergone the necessary operative events to have been tacitly dedicated to the State. Allowing pleadings such as appear in this complaint to be sufficient to state a claim upon which relief could be granted would have the effect of expanding Federal jurisdiction to all areas of State exercise of powers which affect property interests of persons.

For the foregoing reasons, this case is dismissed for lack of jurisdiction, as no right protected by the Constitution or Acts of Congress thereunder has been violated, accepting the averments of the petition as being correct. The counterclaim of Anatole Marks has no independent grounds for jurisdiction and is also dismissed.

THUS DONE AND SIGNED in Chambers, at Alexandria, Louisiana, on this 27th day of October, 1971.

PETITION FOR STATUTORY ATTORNEY'S FEES

27TH JUDICIAL DISTRICT COURT
ST. LANDRY PARISH, LOUISIANA
CIVIL DOCKET NO. 63,637-B

GEORGE BULLER ET AL

vs.

HARRY COMEAUX

The petition of GEORGE BULLER and JOHNNY A. HAAS, both residents of and domiciled in St. Landry Parish, Louisiana, represents:

1.

The defendant is HARRY COMEAUX, who is a resident of and domiciled in St. Landry Parish, Louisiana.

2.

The defendant is indebted to plaintiffs in the sum of Three Thousand and No/100 ($3000.00) Dollars, for the following:

3.

The defendant, HARRY COMEAUX, instituted an action against the plaintiffs, George Buller and Johnny A. Haas, in the United States District Court for the Western District of Louisiana, under Civil Action No. 15,366, alleging generally that the plaintiffs had conspired with Anatole Marks to deprive the defendant

of certain rights guaranteed to him by the U. S. Constitution in violation of the Civil Rights Act of 1965. A copy of that complaint is attached to this petition as an exhibit.

4.

On October 27, 1971, the United States District Court for the Western District of Louisiana, Honorable Nauman Scott, the organ of the Court, dismissed the complaint of Harry Comeaux. A copy of the Court's ruling is attached as an exhibit.

5.

On May 24, 1972, the United States Court of Appeals for the Fifth Circuit affirmed the ruling of Judge Scott in a per curiam decision. A copy of the per curiam is attached to this petition as an exhibit.

6.

On June 15, 1972, a certified copy of the judgment of the United States Court of Appeals for the Fifth Circuit was filed in the office of Mr. Alton L. Curtis, Clerk, United States District Court for the Western District of Louisiana. A copy of the correspondence reflecting this filing is attached to this petition as an exhibit.

7.

In the original complaint of Harry Comeaux, George Buller and Johnny A. Haas were sued in their official capacity as members of the St. Landry Parish Police Jury.

8.

Under the provisions of LSA — R. S. 42:261, Sub-Section D, plaintiffs are entitled to recover a reasonable fee from Harry Comeaux.

9.

Plaintiffs attach a copy of the bill of their Attorney, Robert Brinkman, as an exhibit.

10.

The delays for taking an appeal and/or applying for writs to the United States Supreme Court have elapsed, and, consequently, the judgment is now final.

WHEREFORE, plaintiffs pray that there be judgment herein in their favor and against the defendant, Harry Comeaux, in the sum of Three Thousand and No/100 ($3000.00) Dollars, together with all costs of this proceeding and judicial interest on the amount of attorney's fees from the date of judicial demand until paid.

ROBERT BRINKMAN
P. O. Box 868, Opelousas, La.